



THE CALIFORNIA INSTITUTE OF TECHNOLOGY
JET PROPULSION LABORATORY

GENERAL PROVISIONS (GPs) SET FOR:
COMMERCIAL ITEMS OR SERVICES (CIS) SUBCONTRACT
(located at: <https://acquisition.jpl.nasa.gov/tc/>)

GOVERNMENT SUBCONTRACT	
<p><i>This Subcontract is entered into by the Jet Propulsion Laboratory (JPL) and the Subcontractor in support of a U.S. Government Contract. JPL is a Federally-Funded Research & Development Center (FFRDC) per FAR 35.017, and is an operating division of the California Institute of Technology ("Caltech"), a private nonprofit educational institution.</i></p>	
<p><i>As used in the clauses referenced below and throughout this subcontract:</i></p> <ul style="list-style-type: none"><i>Federal Acquisition Regulation (FAR) 52.202-1 (JAN 2012) "Definitions" is incorporated by reference.</i><i>The term "JPL Subcontracts Manager" means a person with the authority to enter into, administer and/or terminate Subcontracts and make related determinations and findings.</i><i>The following terms shall have the meaning set forth in FAR 2.101: "Agency head" (or "head of agency"), "commercial component," "component," "commercial item," and "nondevelopmental item."</i>	

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SECTION A: GENERAL PROVISIONS WITH FULL TEXT

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ASSIGNMENT, NOVATION AND TRANSFER

This Subcontract may be assigned, novated, or transferred to a successor-in-interest, a successor Contractor to operate the Jet Propulsion Laboratory, or the Government.

ASSIGNMENT OF RIGHTS

- (a) The Subcontractor may assign its rights to be paid amounts due or to become due because of this Subcontract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.
- (b) Any such assignment or reassignment shall be subject to the following conditions:
 - (1) Any assignment or reassignment shall cover all amounts payable under this Subcontract, and not paid as of (i) the effective date of assignment or (ii) the date JPL receives written notice of the assignment, whichever is later.
 - (2) No assignment may be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this Subcontract.
 - (3) Two copies of the notice of assignment, signed by the Subcontractor, shall be furnished to JPL, Attn: (i) Travel and Invoice Management Section, and (ii) JPL Subcontracts Manager.
 - (4) If a party other than the Subcontractor provides JPL with a notification that the amount due or to become due under this Subcontract has been assigned and that payment is made to the claimed assignee, JPL may withhold any payments due and payable under the Subcontract until JPL is furnished with either (i) verification or denial of assignment from the Subcontractor or (ii) reasonable proof that the assignment has been made.
 - (5) The Subcontractor shall not furnish or disclose to any assignee under this Subcontract any classified document (which term includes this Subcontract if access to classified material is authorized under this Subcontract) or information pertaining to classified work under this Subcontract unless JPL authorizes such action in writing.
 - (6) No assignment may be made which includes, either specifically or by implication, any delegation of the Subcontractor's duty to perform the services or provide the supplies required by this Subcontract unless such assignment and delegation is consented to by JPL in accordance with the clause "Delegation of Duties" below.

AUTHORITY OF JPL REPRESENTATIVES

- (a) No request, notice, authorization, direction or order received by the Subcontractor and issued either pursuant to a clause of this Subcontract, to a clause of any document incorporated in this Subcontract by reference, or otherwise, shall be binding upon either the Subcontractor or JPL unless issued or ratified in writing by the JPL Subcontracts Manager, the JPL Acquisition Division Manager or by representative(s) designated in writing by either of them. Designations of authorized representatives shall define the scope and limitations of the authorized representatives' authorities.
- (b) The Subcontractor shall immediately notify, in writing, the JPL Subcontracts Manager whenever a request, notice, authorization, direction, or order has been received from a representative of JPL other than the JPL Subcontracts Manager which, but for the lack of authorization on the part of the issuing JPL representative, would: (i) effect a change within the meaning of the "Changes" clause; (ii) increase or decrease the Subcontract amount or amount allotted to this Subcontract; or (iii) otherwise be the basis for assertion of a claim by the Subcontractor under any clause of the Subcontract.

CHANGES

Changes in the terms and conditions of this Subcontract may be made only by written agreement of the parties.

DATA REMOVAL FROM COMPUTERS AND ELECTRONIC DEVICES

The Subcontractor shall archive all data required to be retained pursuant to the terms of this Subcontract (including, but not limited to, the General Provisions, Additional General Provisions, Alterations to General Provisions and Special Provisions). The Subcontractor shall completely sanitize (e.g., overwrite, degauss or destroy) all media containing data in all computers and other electronic devices and permanently delete all non-transferable licensed software before such computers or other electronic devices leave the control of the Subcontractor by transfer or disposal. All data, including computer software, provided by JPL, derived from JPL data, or owned by the Government or JPL pursuant to this Subcontract shall be permanently deleted from Subcontractor controlled computers or electronic devices before leaving the control of the Subcontractor. The Subcontractor shall submit to JPL a written certification that the above sanitization requirements have been satisfied and the date of such action

DELEGATION OF DUTIES

The Subcontractor is prohibited, without prior written JPL consent, from delegating any part of the duties required of it by this Subcontract; provided, however, that nothing contained herein shall be deemed to prohibit the Subcontractor from placing purchase orders and lower-tier subcontracts, subject, however, to the clause of this Subcontract entitled "lower-tier subcontracts," if any. Delegation of duties without such consent is void.

DISPUTES

Any subcontract dispute which is not resolved by agreement of the parties may be settled by appropriate legal proceedings in a court of competent jurisdiction in the State of California. The Subcontractor shall proceed diligently with the performance of this subcontract during the litigation proceedings and any appeal.

ELECTRICAL EQUIPMENT ACQUISITION

Applicable if: the Subcontract involves acquisition of off-the-shelf electrical equipment for delivery to or use by JPL or its designees.

The electrical equipment being provided by the Subcontractor under this Subcontract shall be listed by Underwriters Laboratory, Factory Mutual Insurance Association, Canadian Standards Association, or similar organization of recognized standing. In the event that the equipment does not carry an appropriate approval, the individual components making up the item must be listed. Proof of listing shall be provided with delivery of the equipment in the form of accompanying data or labels. Any item not conforming to these requirements may be returned to the Subcontractor at the Subcontractor's expense. The Subcontractor agrees to require lower-tier subcontractors, if any, which supply electrical equipment for delivery to or use by JPL or its designees to comply with this clause.

ELECTRONICALLY TRANSMITTED COPIES

This Subcontract or modification(s) thereof may be executed in duplicate with each Party signing one original and providing a facsimile (fax) or other electronic copy of the signature page to the other Party. The Party receiving the electronically transmitted copy shall acknowledge receipt of the electronically submitted copy. Each Party agrees to make its document with the original signature available to the other Party upon request. The Parties further agree that the electronically transmitted copy shall be treated as if it were an original signature and neither Party shall contest the validity of this Subcontract or modification(s) based on the use of electronically transmitted copies of the signature page

EQUAL OPPORTUNITY

The Subcontractor and lower-tier subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

HANDLING, PROTECTION AND RELEASE OF RESTRICTED INFORMATION

1. Handling and Protection of Restricted Information

- (a) Definition. "Restricted information," as used in this clause, means recorded information, regardless of form or the media on which it may be recorded, the use and dissemination of which is restricted, and includes:
- (1) Limited rights data;
 - (2) Restricted computer software;
 - (3) Information incidental to Subcontract administration, such as financial, administrative, cost or pricing, or management information that embody trade secrets or are commercial or financial and confidential or privileged;
 - (4) Information designated by the U.S. Government as Sensitive But Unclassified (SBU);
 - (5) Information that is marked JPL/Caltech Proprietary, Proposal Sensitive or Business Discreet;
 - (6) Design information or guidance as may be embodied in or derived from computer-aided engineering, computer-aided design, analysis models, manufacturing models, drawings or translations of any of the foregoing, regardless of whether such information or guidance is marked or unmarked; and
 - (7) Information obtained directly from JPL electronic resources, such as JPL computers, servers, networks, electronic libraries or document repositories, regardless of whether such information is marked or unmarked.
- (b) Restrictions on use and disclosure of restricted information. With regard to any restricted information to which the Subcontractor is given access, by or on behalf of NASA or JPL, in performance of this Subcontract that is either marked with a restrictive legend indicating that use and disclosure of the information is restricted or is specifically identified in this Subcontract or in writing by the JPL Subcontracts Manager as being subject to this clause, the Subcontractor agrees to:
- (1) Use such restricted information only for the purposes of performing the services specified in this Subcontract;
 - (2) Safeguard the restricted information from unauthorized use and disclosure;
 - (3) Allow access to the restricted information only to those employees and lower-tier subcontractors that need it to perform services under this Subcontract;
 - (4) Preclude access and disclosure of the restricted information to persons and entities outside of the Subcontractor's or its lower-tier subcontractor's organization(s);
 - (5) Inform employees who may require access to the restricted information about obligations to use it only to perform the services specified in this Subcontract and to safeguard it from unauthorized use and disclosure;
 - (6) Require that each employee that has access to restricted information complies with the obligations regarding restricted information included in this clause;
 - (7) Return or dispose of the restricted information, as NASA or JPL may direct, when the restricted information is no longer needed for performance of work under this Subcontract; and
 - (8) Maintain any restrictive markings on sensitive information coming into its possession and on any copies thereof.
- (c) Exceptions
- (1) The obligations and prohibitions of Paragraph (b) do not apply to restricted information which the Subcontractor can demonstrate to the JPL Subcontracts Manager—
 - (A) Was publicly available at the time of receipt by the Subcontractor or thereafter becomes publicly available without breach of this Subcontract;

- (B) Was known to, in the possession of, or developed by or for the Subcontractor independently of the restricted information received from the JPL, and such knowledge, possession, or independent development can be shown;
 - (C) Was received by the Subcontractor from a party other than the owner of the restricted information, who has the authority to release the restricted information and did not require the Subcontractor to hold it in confidence; or
 - (D) Is released to or becomes available to a third party on an unrestricted basis from the owner of the restricted information, someone acting under the owner's control, or with the prior written approval of the owner.
- (2) Under a valid order of a court or Government agency, the Subcontractor may release restricted information to which the Subcontractor is given access by or on behalf of NASA or JPL in performance of this Subcontract, provided that the Subcontractor provides prior written notice to the owner of the restricted information of such obligation and the opportunity to oppose such disclosure. The Subcontractor shall provide a copy of the notice to the JPL Subcontracts Manager.
- (d) In the event that restricted information provided to the Subcontractor by or on behalf of NASA or JPL includes a restrictive legend that the Subcontractor deems to be ambiguous or unauthorized, the Subcontractor must notify the JPL Subcontracts Manager of such condition. Notwithstanding such a notification, as long as the restrictive legend provides an indication that a restriction on use or disclosure was intended, the Subcontractor will treat the restricted information pursuant to the requirements of this clause unless otherwise directed in writing by the JPL Subcontracts Manager or the owner of the restricted information.
 - (e) Other subcontractual restrictions on restricted information. This clause is subordinate to all other Subcontract clauses or requirements that specifically address the access, use, handling, protection or disclosure of information. If any restrictions or authorizations in this clause are inconsistent with a requirement of any other clause of this Subcontract, the requirement of the other clause shall take precedence over the requirement of this clause. Third party limited rights data and restricted computer software will be provided under this Subcontract only as authorized by the clause at 52.227-14, Rights in Data—General, Alternates II and III (as modified by 1852.227-14, if applicable). If the Subcontractor believes there is a conflict between this clause and another clause in this Subcontract regarding the access, use, handling, protection or disclosure of restricted information, the Subcontractor must consult with the JPL Subcontracts Manager before taking subsequent actions under the other clause.
 - (f) The JPL Subcontracts Manager may require the Subcontractor to demonstrate how it is complying with this Handling and Protection of Restricted Information clause.
 - (g) Remedies. Recognizing that this Subcontract establishes a high standard of accountability and trust, the Subcontractor's breach of any of the conditions of this clause may provide grounds for the Government or JPL to pursue such remedies as may be permitted by law, regulation, or this Subcontract. Unauthorized uses or disclosures of sensitive information may result in termination of this Subcontract for default, in addition to any other rights and remedies available by law to the Government, JPL or other provider of sensitive information.
 - (h) Unless otherwise specifically provided in this Subcontract, no warranty, express or implied, including without limitation any warranty of accuracy, utility, merchantability or of fitness for a particular purpose, is provided hereunder for any of the disclosed sensitive information.
 - (i) The Subcontractor's obligations under this clause shall survive the expiration or termination of this Subcontract.

2. Release of Restricted Information

- (a) Definition. "Restricted information," as used in this clause, means recorded information, regardless of form or the media on which it may be recorded, the use and dissemination of which is restricted, and includes:
 - (1) Limited rights data;
 - (2) Restricted computer software;
 - (3) Information incidental to Subcontract administration, such as financial, administrative, cost or pricing, or management information that embody trade secrets or are commercial or financial and confidential or privileged;

- (4) Information designated by the U.S. Government as Sensitive But Unclassified (SBU).
 - (5) Information that is marked JPL/Caltech Proprietary, Proposal Sensitive or Business Discreet;
 - (6) Design information or guidance as may be embodied in or derived from computer-aided engineering, computer-aided design, analysis models, manufacturing models, drawings or translations of any of the foregoing, regardless of whether such information or guidance is marked or unmarked; and
 - (7) Information obtained directly from JPL electronic resources, such as JPL computers, servers, networks, electronic libraries or document repositories, regardless of whether such information is marked or unmarked.
- (b) Subcontractors, as well as their lower-tier subcontractors and their individual employees, may require access to restricted information in the JPL's possession. The Subcontractor agrees that, where needed for the performance of a subcontract, JPL may release to the Subcontractor and to any of its lower-tier subcontractors, restricted information delivered during the course of this Subcontract. Additionally, offerors agree that restricted information submitted with their proposals may be provided to JPL service subcontractors that assist JPL with subcontract closeout. If suitably marked with a legend indicating that use and disclosure of restricted information is restricted or if the information falls under Paragraph 2.(a)(6) or Paragraph 2.(a)(7), such restricted information will be subject to the enumerated protections mandated by this clause. The Subcontractor's limited rights data and restricted computer software will be provided to other JPL subcontractors or their lower-tier subcontractors only as authorized by the clause at 52.227-14, Rights in Data-General, Alternates II and III (as modified by 1852.227-14, if applicable).
- (c) Unless the JPL Subcontracts Manager decides that reasonable grounds exist to challenge the markings, NASA, JPL, and its Subcontractors and lower-tier subcontractors, shall comply with all of the safeguards contained in Paragraph 2.(d) and Paragraph 1. of this clause.
- (d) To receive access to restricted information needed to assist NASA and JPL in accomplishing NASA mission activities and management and administrative functions, the Subcontractor and lower-tier subcontractors must be operating under a subcontract that contains this clause, which obligates the Subcontractor or lower-tier subcontractor, with respect to restricted information marked with a legend indicating that use and disclosure of the information is restricted, to do the following:
- (1) Use such restricted information only for the purpose of performing the services specified in its Subcontract;
 - (2) Safeguard such restricted information from unauthorized use and disclosure;
 - (3) Allow access to such restricted information only to those employees and Subcontractors that need it to perform services under the Subcontract;
 - (4) Preclude access and disclosure of such restricted information to persons and entities outside of the Subcontractor's or its lower-tier subcontractor's organization(s);
 - (5) Inform employees who may require access to such restricted information about obligations to use it only to perform the services specified in its Subcontract and to safeguard it from unauthorized use and disclosure;
 - (6) Require that each employee that has access to restricted information complies with the obligations regarding restricted information included in this clause; and
 - (7) Return or dispose of such restricted information, as NASA or JPL may direct, when the restricted information is no longer needed for performance of work under the Subcontract.
 - (8) Maintain any restrictive markings on sensitive information coming into its possession and on any copies thereof.
- (e) Exceptions. The obligations and prohibitions of Paragraph (e) of this clause do not apply to restricted information which the receiving Subcontractor can demonstrate to the JPL Subcontracts Manager -
- (1) Was publicly available at the time of receipt by the receiving Subcontractor or thereafter becomes publicly available without breach of this Subcontract;
 - (2) Was known to, in the possession of, or developed by or for the receiving Subcontractor independently of the restricted information received from the Government or JPL, and such knowledge, possession, or independent development can be shown;

- (3) Was received by the receiving Subcontractor from a party other than the owner of the restricted information, who has the authority to release the restricted information and did not require the receiving Subcontractor to hold it in confidence;
 - (4) Is released to or becomes available to a third party on an unrestricted basis from the owner of the restricted information, someone acting under the owner's control, or with the prior written approval of the owner; or
 - (5) Is required to be released under a valid order of a court or Government agency, provided that the Subcontractor provides prior written notice to the owner of the restricted information of such obligation and the opportunity to oppose such disclosure.
- (f) Subcontractor personnel requiring privileged access or limited privileged access to JPL or NASA information technology systems that contain restricted information and that are the primary responsibility of another Subcontractor are subject to screening using the standard National Agency Check (NAC) forms appropriate to the level of risk for adverse impact to JPL or NASA missions. The JPL Subcontracts Manager may allow the Subcontractor to conduct its own screening, provided the Subcontractor employs substantially equivalent screening procedures.
- (g) This clause does not affect JPL's rights or NASA's responsibilities under the Freedom of Information Act.

3. Lower-tier Subcontracts

The Subcontractor shall insert, or require the insertion of Paragraphs 1. and 2. of this clause, including this Paragraph 3., suitably modified to reflect the relationship of the parties, in all lower-tier subcontracts (regardless of tier).

IEEE 1680 STANDARD FOR THE ENVIRONMENTAL ASSESSEMENT OF PERSONAL COMPUTER PRODUCTS

- (a) Definitions. As used in this clause—
- "Computer monitor" means a video display unit used with a computer.
- "Desktop computer" means a computer designed for use on a desk or table.
- "Notebook computer" means a portable-style or laptop-style computer system.
- "Personal computer product" means a notebook computer, a desktop computer, or a computer monitor, and any peripheral equipment that is integral to the operation of such items. For example, the desktop computer together with the keyboard, the mouse, and the power cord would be a personal computer product. Printers, copiers, and fax machines are not included in peripheral equipment, as used in this definition.
- (b) Under this Subcontract, the Subcontractor shall deliver, furnish for Government or JPL use, or furnish for Subcontractor use at a Government-owned facility, only personal computer products that at the time of submission of proposals were EPEAT Bronze registered or higher. Bronze is the first level discussed in clause 1.4 of the IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products.
- (c) For information about the standard, see www.epeat.net.

INSPECTION AND ACCEPTANCE

- (a) Inspection/Acceptance. The Subcontractor shall only tender for acceptance those items that conform to the requirements of this Subcontract. JPL reserves the right to inspect or test any supplies or services that have been tendered for acceptance. JPL may require repair or replacement of nonconforming supplies or performance of nonconforming services at no increase in Subcontract price. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with Subcontract requirements. JPL must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
- (b) The Subcontractor shall remove supplies rejected or required to be corrected. However, JPL may require or permit correction in place promptly after notice, by and at the expense of the Subcontractor. The Subcontractor shall not

tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

- (c) If the Subcontractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, JPL may either (i) by Subcontract or otherwise, remove, replace, or correct the supplies and charge the cost to the Subcontractor or (ii) terminate the Subcontract for default as provided in the clause of this Subcontract entitled "Termination for Cause." Unless the Subcontractor corrects or replaces the supplies within the delivery schedule, JPL may require their delivery and make an equitable price reduction.
- (d) Inspections and tests by JPL do not relieve the Subcontractor of responsibility for defects or other failures to meet Subcontract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as regards JPL's rights under any warranty or guarantee, or as otherwise specified in this Subcontract.

INSURANCE AND INDEMNIFICATION

- (a) This clause is applicable if:
 - (1) The performance of this Subcontract includes activities which could endanger non-Subcontractor personnel and such activities are performed at a location which is not secured by appropriate Subcontractor-controlled access restrictions; or
 - (2) This Subcontract requires work on a Government installation or premises under the control of JPL.
- (b) Insurance. The Subcontractor shall, at its own expense, provide and maintain during the entire performance period of this Subcontract at least the following kinds and minimum amounts of insurance with JPL named as an additional insured in all of its policies for comprehensive liability insurance with a carrier licensed and admitted in the State of California.
 - (1) Workers' Compensation and Employer's Liability Insurance, as required by applicable Federal and state workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the Employer's Liability section of the insurance policy, except when Subcontract operations are so commingled with the Subcontractor's commercial operations that it would not be practical. The Employer's Liability coverage shall be at least \$2,000,000, except in states with exclusive or monopolistic funds that do not permit worker's compensation to be written by private carriers. However, the Subcontractor in fulfillment of its obligation to provide Workers' Compensation Insurance may maintain a self-insurance program if the Subcontractor is qualified pursuant to statutory authority to do so.
 - (2) Comprehensive Liability Insurance, including automobiles (owned, non-owned, or leased), completed operations, products, and contractual liability, for a combined single limit of not less than \$2,000,000 for all deaths, injuries, and property damage arising from any accident or occurrence.
- (c) Insurance Certificates and Endorsements. Before commencing work under this Subcontract, the Subcontractor shall furnish (i) certificates of insurance for the coverages specified in paragraph (b) above, and (ii) an additional insured endorsement naming JPL as an additional insured to the Subcontract for the coverage specified in paragraph (b)(2) above. Such certificates and the endorsement shall provide that any cancellation or material change in the insurance policies shall not be effective (i) for such period as the laws of the State in which this Subcontract is to be performed prescribe, or (ii) until 30 days after the insurer or the Subcontractor gives written notice to JPL, whichever period is longer. Also, such certificates and the endorsement shall (i) cover contractual liability assumed under this Subcontract, and (ii) be primary and non-contributing to any insurance procured by JPL. The Subcontractor agrees to permit JPL to examine its original policies, should JPL so request. Should the Subcontractor at any time neglect or refuse to provide the insurance required herein, or should such insurance be canceled, JPL shall have the right to procure same and the costs thereof shall be deducted from monies then due or thereafter to become due to the Subcontractor.
- (d) Indemnification. The Subcontractor agrees that it will be responsible to the Government and JPL for, and will indemnify, immediately defend and hold harmless the Government and JPL, its trustees, officers, and employees, from any loss, cost, damage, expense or liability, including attorney's fees, or any suit therefore, by reason of actual or alleged claims of any kind, including, but not limited to property damage or personal injury of whatever kind or character, arising out of or in connection with the performance of work hereunder by the Subcontractor or any of its lower-tier subcontractors, however caused, including any resulting from any alleged or actual negligent act or omission, regardless of whether such act or omission is active or passive, but excepting only a duty to indemnify to

the extent such loss, cost, damage, expense or liability is attributable to the sole negligence or willful misconduct of the Government or of JPL, its trustees, agents, officers or employees.

(e) Lower-tier subcontracts.

- (1) The Subcontractor shall insert the substance of this clause, including this paragraph (e), in any and all lower-tier subcontracts under this Subcontract if:
 - (A) The performance of the lower-tier subcontract includes activities which could endanger non-lower-tier subcontractor personnel and such activities are performed at a location which is not secured by appropriate lower-tier subcontractor-controlled access restrictions; or
 - (B) This lower-tier subcontract requires work on a Government installation or premises under the control of JPL.
- (2) At least five days before entry of each such lower-tier subcontractor's personnel on the Government installation or JPL-controlled premises, the Subcontractor shall furnish (or ensure that there has been furnished) to JPL a current certificate of insurance meeting the requirements of paragraph (c) above, for each such lower-tier subcontractor.

(f) This clause shall be interpreted pursuant to California law.

NEW MATERIAL

(a) Definitions

- (1) "Material," as used in this clause, includes, but is not limited to, raw material, parts, items, components, and end products.
- (2) "New," as used in this clause, means previously unused or composed of previously unused materials and may include unused residual inventory or unused former Government surplus property.
- (3) "Other than new", as used in this clause, includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned.

(b) Unless this Subcontract specifies otherwise, the Subcontractor represents that the supplies, are new and are not of such age or so deteriorated as to impair their usefulness or safety.

(c) If the Subcontractor believes that furnishing other than new material will be in JPL's interest, the Subcontractor shall so notify the JPL Subcontracts Manager in writing and request authority to use such material. The Subcontractor's notice shall include the reasons for the request along with a proposal for any consideration due JPL if the JPL Subcontracts Manager authorizes the use of other than new material.

ORDER OF PRECEDENCE

(a) The rights and obligations of the parties of this Subcontract shall be subject to and governed by the Schedule, the General Provisions (the term "General Provisions" includes any "Additional General Provisions"), and any proposals, specifications or other documents or provisions which are made a part of this Subcontract by reference or otherwise.

(b) To the extent of any inconsistency between (i) the Schedule, other than the Alterations Clause, (ii) the Alterations Clause in the Schedule, and (iii) the GPs, the inconsistency will be resolved in the following order of priority:

- (1) The Alterations Clause.
- (2) The GPs not altered.
- (3) The Schedule, other than the Alterations Clause.

(c) To the extent of any inconsistency between:

- (1) The Schedule, other than any proposals, specifications or other documents or provisions which are made a part of this Subcontract by reference or otherwise, in the Schedule or the General Provisions, and
 - (2) Any proposals, specifications or other documents or clauses which are made a part of this Subcontract by reference or otherwise in the Schedule or the General Provisions,
 - (3) (c)(1) has order of precedence over (c)(2).
- (d) All clauses of this Subcontract that are required by their terms to be included in lower-tier subcontracts shall be required by the Subcontractor to take precedence in the lower-tier subcontract over any other clauses.

PAYMENTS AND DISCOUNTS

- (a) Invoices shall be submitted in accordance with the instructions located at <http://invoice.jpl.nasa.gov/>
- (b) JPL shall pay the Subcontractor, upon the submission of proper invoices, the prices stipulated in this Subcontract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this Subcontract.
- (c) JPL may elect to require the Subcontractor to accept electronic payments.
- (d) JPL shall make its best effort to make payments within the net period, if any, specified in the Subcontract, measured from the date of receipt of the goods or services at the destination or the date of receipt of the invoice, whichever is later. Discount time periods will be measured from the same date. Payment shall be deemed to have been made on the date the check is mailed or on the date on which an electronic funds transfer was made. In no event will JPL be liable for or pay a surcharge, interest, or any kind of penalty as a result of JPL's payment not being made within the net period, if any, specified in the Subcontract or the date of payment by electronic funds transfer.
- (e) Payment for goods or services in accordance with this paragraph will not waive or otherwise affect the right of JPL to inspect such goods or services or to reject, or revoke acceptance of, nonconforming goods.
- (f) Unless otherwise specified in this Subcontract, payment shall be made upon acceptance of any portion of the work delivered or rendered for which a price is separately stated in the Subcontract.
- (g) Except to the extent otherwise stated in the Subcontract Schedule, JPL's obligation to pay the Subcontract price for goods delivered or services performed is automatically waived for an amount of \$1,000 or less if no invoice is received by JPL for that amount due within 60 days of receipt of the related goods or services.

REQUIRED NOTICES

Unless otherwise specified in this Subcontract, any notice which the Subcontractor is required to provide to JPL under any clause of this Subcontract shall be directed to the JPL Subcontracts Manager or the Manager, Acquisition Division, JPL, or their authorized representatives.

RESPONSIBILITY FOR SUPPLIES

- (a) Title to supplies furnished under this Subcontract shall pass to the Government upon formal acceptance by JPL, regardless of when or where JPL takes physical possession, unless the Subcontract specifically provides for earlier passage of title.
- (b) Unless the Subcontract specifically provides otherwise, risk of loss or damage to supplies shall remain with the Subcontractor until, and shall pass to JPL upon:
 - (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
 - (2) Acceptance by JPL or delivery of the supplies to JPL at the destination specified in the Subcontract, whichever is later, if transportation is f.o.b. destination.

TAXES

The Subcontract price includes all applicable Federal, state and local taxes and duties. Items of tangible personal property to be delivered under this Subcontract are for resale to the United States Government (California Resale Certificate No. SR AP 17-006226).

TERMINATION FOR CAUSE - CIS

JPL may terminate this Subcontract, or any part of it, for cause in the event of any default by the Subcontractor, or if the Subcontractor fails to comply with any Subcontract terms and conditions, or fails to provide JPL, upon request, with adequate assurances of future performance. In the event of termination for cause, JPL shall not be liable to the Subcontractor for any amount for supplies or services not accepted, and the Subcontractor shall be liable to JPL for any and all rights and remedies provided by law. If it is determined that JPL improperly terminated this Subcontract for default, such termination shall be deemed a termination for convenience.

TERMINATION FOR CONVENIENCE - CIS

JPL reserves the right to terminate this Subcontract, or any part hereof, for its sole convenience. In the event of such termination, the Subcontractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and lower-tier subcontractors to cease work. Subject to the terms of this Subcontract, the Subcontractor shall be paid a percentage of the Subcontract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Subcontractor can demonstrate to the satisfaction of JPL, using its standard record keeping system, have resulted from the termination. The Subcontractor shall not be required to comply with the cost accounting standards or Subcontract cost principles for this purpose. This paragraph does not give JPL any right to audit the Subcontractor's records. The Subcontractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

WARRANTY FOR COMMERCIAL ITEMS

The Subcontractor shall provide JPL with a copy of any standard warranty, which is normally offered on a commercial product deliverable under this Subcontract. This warranty shall be deemed to be incorporated by reference and JPL shall be entitled to all rights under such warranty.

SECTION B

**The Federal Acquisition Regulation (FAR) and NASA FAR Supplement (NFS)
clauses on the following pages are incorporated by reference with the same force
and effect as if they were given in full text**

The FAR/NFS clauses listed below shall be suitably revised to identify the contracting and other parties to address the proper intent of the clause, except as shown in the notes associated with the clause. The following guidelines help illustrate:

- “contract” means “subcontract”
- “contractor” means “subcontractor”
- “subcontract” means “lower-tier subcontract”
- “subcontractor” means “lower-tier subcontractor”
- “Contracting Officer” means “JPL Subcontracts Manager”
- “Government” means “JPL”

As an exception to the above, the terms “Government” and “Contracting Officer” do not change when a right, act, authorization or obligation can be granted or performed only by the Government or Contracting Officer or his/her duly-authorized representative.

Unless otherwise noted below, the following terms are to remain unchanged: “U.S.,” United States,” “U.S. Government,” “United States Government,” “Federal,” and “Federal Government”

FAR and NFS Clauses Incorporated into this Subcontract by Reference (all references are FAR Clauses, unless preceded by “NFS”)	
Reference	Title and Date
Applicable for all Subcontract Dollar Values	
52.212-4(f)	Excusable Delays (July 2013) <i>Note 1: “Government” means Government.</i>
52.222-50	Combating Trafficking in Persons (Feb 2009) <i>Note 1: “Government” means Government.</i>
52.222-54	Employment Eligibility Verification (Jan 2009) <i>(Applies: only when subcontractor or lower-tier subcontractor is required to have physical access to a federally-controlled facility or access to a federal information system.)</i> <i>Note 1: “Government” means “Government.”</i> <i>Note 2: Delete ¶ (e) and replace with: “The Subcontractor shall include the requirements of this clause, including this Paragraph (e) (appropriately modified for identification of the parties), in each lower-tier subcontract when a lower-tier subcontractor is required to have physical access to a federally-controlled facility or access to a federal information system.”</i>
52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts (Dec 2007) <i>(Applies to subcontracts for services or construction, unless the subcontract will not involve the use of USDA-designated items at http://www.biopreferred.gov or 7 CFR part 3201)</i> <i>Note 1: ¶ (b) - replace http://www.usda.gov/biopreferred with http://www.biopreferred.gov.</i>
52.223-3	Hazardous Materials Identification and Material Safety Data (Jan 1997) <i>Note 1: Applies if the Subcontract will require the delivery of hazardous materials as defined in FAR 23.301.</i> <i>Note 2: ALT 1 (July 1995) applies.</i>

52.223-7	Notice of Radioactive Materials (Jan 1997) <i>Note 1: Applies if subcontract is for radioactive materials, as defined in the clause.</i> <i>Note 2: Add to paragraph (a): "30 days"</i>
52.223-11	Ozone-Depleting Substances (May 2001) <i>Note 1: Applies to subcontracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances.</i> <i>Note 2: "Ozone-depleting substances" is defined in the clause.</i>
52.223-12	Refrigeration Equipment and Air Conditioners (May 1995) <i>Note 1: Applies to services when the subcontract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as an air conditioners, including motor vehicles, refrigerators, chillers, or freezers.</i>
52.223-15	Energy Efficiency in Energy-Consuming Products (Dec 2007)
52.223-17	Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts (May 2008) <i>(Applies to subcontracts for services or construction, unless the subcontract will not involve the use of EPA-designated items.)</i>
52.225-13	Restrictions on Certain Foreign Purchases (June 2008)
52.227-19	Commercial Computer Software License (Dec 2007) <i>(Applies to subcontracts for the acquisition of commercial computer software.)</i> <i>Note 1: "Government" means the Government in support and furtherance of its obligations, Caltech, JPL and others acting on their behalf.</i> <i>Note 2: ¶ (c) - Insert subcontract number.</i>
52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013) <i>Note 1: "Government" means the Government and JPL</i>
52.244-6	Subcontracts for Commercial Items (Dec 2010)
NFS: 1852.225-70	Export Licenses (Feb 2000) <i>Note 1: ALT 1 (Feb 2000) applies.</i> <i>Note 2: "Contracting Officer" means "Contracting Officer through the JPL Subcontracts Manager."</i> <i>Note 3: ¶ (b) - where it says "insert name of NASA installation" insert "JPL."</i>
Applicable for Subcontract Values Greater than \$3,000	
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011)
52.225-1	Buy American Act – Supplies (Feb 2009) <i>Note 1: "Government" means "Government."</i>
Applicable for Subcontract Values Greater than \$10,000	
52.222-21	Prohibition of Segregated Facilities (Feb 1999)
52.222-26	Equal Opportunity (Mar 2007) <i>Note 1: "Contracting Officer" means "Contracting Officer."</i> <i>Note 2: "Government" means "Government."</i>
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) <i>(Applies in every subcontract that exceeds \$10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009.)</i>
Applicable for Subcontract Values Greater than \$15,000	
52.222-36	Affirmative Action for Workers with Disabilities (Oct 2010) <i>(Does not apply if both the performance of the work and the recruitment of workers will occur outside the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)</i>

Applicable for Subcontract Values of \$25,000 or More	
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2010) <i>Note 1: Subcontractor shall report the information required by (c)(1) and the executive compensation required by (c)(3) unless the Subcontractor is exempt.</i> <i>Note 2: "Government" means "Government."</i> <i>Note 3: The subcontract or is notified that unless otherwise exempt, all reported information as required by the clause will be made public.</i> <i>Note 4: ¶ (a) - "Definitions" apply to this clause.</i>
Applicable for Subcontract Values Greater than \$75,000	
52.211-15	Defense Priority and Allocation Requirements (Apr 2008)
Applicable for Subcontract Values of \$100,000 or More	
52.222-35	Equal Opportunity for Veterans (Sep 2010) <i>(Does not apply if work is performed outside the United States by employees recruited outside the U.S.)</i> <i>Note 1: "Government" means "Government."</i>
52.222-37	Employment Reports on Veterans (Sep 2010) <i>Note 1: "Government" means "Government."</i>
Applicable for Subcontract Values Greater than \$150,000	
52.242-13	Bankruptcy (Jul 1995) <i>Note 1: Upon the notification requirement per FAR 52.242-13, the Subcontractor shall to the maximum extent permitted by law: (1) continue to ensure that JPL has the right of access to all areas of the facilities and records involved in this subcontract; and (2) provide JPL access to subcontract documents delivered in place/held at the Subcontractor's facility or provide electronic copies thereof.</i> <i>The Subcontractor shall ensure that the trustee, receiver, or liquidator, as applicable, is aware of the requirements set forth immediately above.</i>
Applicable for Subcontract Values Greater than \$500,000	
NFS: 1852.223-75	Major Breach of Safety and Security (Feb 2002) <i>Note 1: ALT I (Feb 2006) applies if the subcontract is with an educational or other nonprofit institution and contains the termination clause at FAR 52.249-5 or if the subcontract is for commercial items and contains the clause at FAR 52.212-4.</i>
Applicable for Subcontract Values Greater than \$5,000,000	
52.203-13	Contractor Code of Business Ethics and Conduct (Apr 2010) <i>(Applies if the subcontract exceeds \$5,000,000 and has a performance period of more than 120 days)</i> <i>Note 1: "Subcontract" means "Subcontract."</i> <i>Note 2: "Government" means "Government and JPL in support of its Government contractual obligations."</i>